

### § 515.3

### 46 CFR Ch. IV (10–1–03 Edition)

consignee on one bill of lading which does not exceed the underlying common carrier's minimum charge rule.

(v) *Special contract* is a contract for freight forwarding services which provides for a periodic lump sum fee.

(w) *Transportation-related activities* which are covered by the financial responsibility obtained pursuant to this part include, to the extent involved in the foreign commerce of the United States, any activity performed by an ocean transportation intermediary that is necessary or customary in the provision of transportation services to a customer, but are not limited to the following:

(1) For an ocean transportation intermediary operating as a Freight forwarder, the freight forwarding services enumerated in § 515.2(i), and

(2) For an ocean transportation intermediary operating as a non-vessel-operating common carrier, the non-vessel-operating common carriers services enumerated in § 515.2(l).

(x) *United States* includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

[64 FR 11171, Mar. 8, 1999, as amended at 65 FR 15254, Mar. 22, 2000; 65 FR 26512, May 8, 2000]

#### § 515.3 License; when required.

Except as otherwise provided in this part, no person in the United States may act as an ocean transportation intermediary unless that person holds a valid license issued by the Commission. A separate license is required for each branch office that is separately incorporated. For purposes of this part, a person is considered to be "in the United States" if such person is resident in, or incorporated or established under, the laws of the United States. Only persons licensed under this part may furnish or contract to furnish ocean transportation intermediary services in the United States on behalf of an unlicensed ocean transportation intermediary.

#### § 515.4 License; when not required.

A license is not required in the following circumstances:

(a) *Shipper*. Any person whose primary business is the sale of merchandise may, without a license, dispatch and perform freight forwarding services on behalf of its own shipments, or on behalf of shipments or consolidated shipments of a parent, subsidiary, affiliate, or associated company. Such person shall not receive compensation from the common carrier for any services rendered in connection with such shipments.

(b) *Employee or branch office of licensed ocean transportation intermediary*.

(1) An individual employee or unincorporated branch office of a licensed ocean transportation intermediary is not required to be licensed in order to act solely for such licensee, provided that such branch offices:

(i) Have been reported to the Commission in writing; and

(ii) Are covered by increased financial responsibility in accordance with § 515.21(a)(4).

(2) Each licensed ocean transportation intermediary will be held strictly responsible for the acts or omissions of any of its employees or agents rendered in connection with the conduct of its business.

(c) *Common carrier*. A common carrier, or agent thereof, may perform ocean freight forwarding services without a license only with respect to cargo carried under such carrier's own bill of lading. Charges for such forwarding services shall be assessed in conformance with the carrier's published tariffs.

(d) *Ocean freight brokers*. An ocean freight broker is not required to be licensed to perform those services specified in § 515.2(n).

(e) *Federal military and civilian household goods*. Any person which exclusively transports used household goods and personal effects for the account of the Department of Defense, or for the account of the federal civilian executive agencies shipping under the International Household Goods Program administered by the General Services Administration, or both, is not subject to the requirements of subpart B of this part, but may be subject to other requirements, such as alternative surety bonding, imposed by the Department of

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Defense, or the General Services Administration.

### § 515.5 Forms and Fees.

(a) *Forms.* License form FMC-18 Rev., and financial responsibility forms FMC-48, FMC-67, FMC-68, FMC-69 may be obtained from the Commission's website at <http://www.fmc.gov>, the Director, Bureau of Consumer Complaints and Licensing, Federal Maritime Commission, Washington, D.C. 20573, or from any of the Commission's area representatives.

(b) *Fees.* All fees shall be payable by money order, certified check, cashier's check, or personal check to the "Federal Maritime Commission." Should a personal check not be honored when presented for payment, the processing of an application under this section shall be suspended until the processing fee is paid. In any instance where an application has been processed in whole or in part, the fee will not be refunded. Such fees are:

(1) Application for license as required by § 515.12(a): \$799;

(2) Application for status change or license transfer as required by §§ 515.18(a) and 515.18(b): \$506; and

(3) Supplementary investigations required by § 515.25(a): \$225.

[64 FR 11171, Mar. 8, 1999, as amended at 67 FR 39860, June 11, 2002]

## Subpart B—Eligibility and Procedure for Licensing

### § 515.11 Basic requirements for licensing; eligibility.

(a) *Necessary qualifications.* To be eligible for an ocean transportation intermediary license, the applicant must demonstrate to the Commission that:

(1) It possesses the necessary experience, that is, its qualifying individual has a minimum of three (3) years experience in ocean transportation intermediary activities in the United States, and the necessary character to render ocean transportation intermediary services. A foreign NVOCC seeking to be licensed under this part must demonstrate that its qualifying individual has a minimum 3 years' experience in ocean transportation intermediary activities, and the necessary

character to render ocean transportation intermediary services; and

(2) It has obtained and filed with the Commission a valid bond, proof of insurance, or other surety in conformance with § 515.21.

(3) An NVOCC with a tariff and proof of financial responsibility in effect as of April 30, 1999, may continue to operate as an NVOCC without the requisite three years' experience and necessary character to render ocean transportation intermediary services and will be provisionally licensed while the Commission reviews its application. Such person designated as the qualifying individual for a provisionally licensed NVOCC may not act as a qualifying individual for another ocean transportation intermediary until it has obtained the necessary three years' experience in ocean transportation intermediary services.

(b) *Qualifying individual.* The following individuals must qualify the applicant for a license:

(1) *Sole proprietorship.* The applicant sole proprietor.

(2) *Partnership.* At least one of the active managing partners, but all partners must execute the application.

(3) *Corporation.* At least one of the active corporate officers.

(c) *Affiliates of intermediaries.* An independently qualified applicant may be granted a separate license to carry on the business of providing ocean transportation intermediary services even though it is associated with, under common control with, or otherwise related to another ocean transportation intermediary through stock ownership or common directors or officers, if such applicant submits: a separate application and fee, and a valid instrument of financial responsibility in the form and amount prescribed under § 515.21. The qualifying individual of one active licensee shall not also be designated as the qualifying individual of an applicant for another ocean transportation intermediary license, unless both entities are commonly owned or where one directly controls the other.

(d) *Common carrier.* A common carrier or agent thereof which meets the requirements of this part may be licensed to dispatch shipments moving on other